



## SOLICITATION AND CANVASSING CURFEWS

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### ISSUE

Do municipal ordinances prohibiting door-to-door solicitation and canvassing during evening hours violate solicitors and canvassers' First Amendment rights?

The Office of Legislative Research is not authorized to provide legal opinions and this report should not be considered one.

### SUMMARY

According to McQuillin's, a leading treatise on municipal law, across the country, "the majority view is that solicitation licensing ordinances that fail to permit some evening activity are not sufficiently tailored to serve the governmental interests advanced for such restrictions and are therefore constitutionally overbroad" (§ 26:154.32.50). With regard to the law in Connecticut, we identified only one case that addresses a challenge to an ordinance with an evening solicitation curfew, *Connecticut Citizens Action Group (CCAG) v. Southington*, 508 F.Supp. 43 (D. Conn. 1980). The case appears to remain good law.

In this case, CCAG challenged a Southington town ordinance that prohibited solicitors and canvassers from going door-to-door after 6:00 p.m. CCAG, a nonprofit advocacy organization, claimed that the ordinance violated its First and Fourteenth Amendment rights (freedom of speech, press, assembly, and petition). Southington chiefly defended the ordinance as necessary to prevent crime and residents' undue annoyance. Finding the town could accomplish its goals through less restrictive means, the federal district court for the District of Connecticut enjoined the town from enforcing the ordinance in a manner that unduly limited CCAG's constitutional rights.

## **CASE SUMMARY**

### ***Facts***

In 1979, Southington adopted an ordinance prohibiting peddlers and solicitors, including civic organizations, from going door-to-door after 6:00 p.m. It established an exception for ice cream vendors who, during the summer, could operate until 10:00 p.m. Before the ordinance was adopted, CCAG regularly solicited door-to-door after 6:00 p.m. After the ordinance's adoption, CCAG applied for an exemption from the time restriction, which the town denied. CCAG filed suit.

Both parties agreed that the ordinance's validity depended on whether it was "narrowly drawn to protect a legitimate community interest" and did not "intrude unduly upon First Amendment rights." Southington argued that the ordinance was necessary to protect two legitimate community interests: crime prevention and residents' peaceful enjoyment of their homes. It also contended that the ordinance was neither vague nor overbroad and was content-neutral. It thus concluded that the ordinance was narrowly drawn. CCAG, however, claimed that the ordinance infringed upon its constitutional rights to freedom of speech, press, assembly, and petition by preventing solicitation during the most advantageous hours (i.e., when people are likely to be home). It also claimed that the town's legitimate community interests could be protected by less restrictive means.

### ***Issue***

Did Southington's ordinance, prohibiting door-to-door canvassing and solicitation after 6:00 p.m., violate CCAG's constitutional rights?

### ***Holding***

The court held that the ordinance's curfew unduly limited CCAG's right to freedom of speech, press, and expression under the First and Fourteenth Amendments. Thus, it enjoined Southington from enforcing its ordinance in a manner that limited these rights.

### ***Analysis***

The court, reviewing U.S. Supreme Court decisions addressing First Amendment rights, noted that laws "affecting constitutional rights must be drawn with 'precision,' and must be 'tailored' to serve their legitimate objectives...if there are other, reasonable ways to achieve those goals with a lesser burden on constitutionally protected activity ...[the government] must choose 'less drastic means'" (quoting *Dunn v. Blumstein*, 405 U.S. 330; internal citations omitted). At the same time, the court acknowledged that door-to-door canvassing and solicitation is a form of political speech and not exempt from regulation.

Applying these principles, the court rejected each of the town's defenses. With regard to the town's argument that the 6:00 p.m. curfew was necessary to prevent crime and not overbroad, the court found that less restrictive hours could sufficiently protect community interests. As an example, it noted licensing requirements "could be used to control the dangers posed by criminals masquerading as door-to-door canvassers." As to preventing annoyances, the court determined that the town had options other than a 6:00 p.m. curfew. For example, the town could punish solicitors and canvassers who returned to properties knowing that the occupants did not want to be disturbed.

With regard to the town's argument that the ordinance was content-neutral and not vague, the court noted that (1) equality of treatment does not legitimize an ordinance that unnecessarily infringes on constitutional rights and (2) allowing ice cream vendors to solicit until 10:00 p.m. improperly treated commercial speech more favorably than political speech.

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